

PS 8D
(04/05)

September 5, 2008


UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 SEP -5 PM 3:51

Petition for Warrant for Defendant Under Supervision

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY
Dkt No.: 08CR1840WQH-001

Name of Defendant: Chavez, Bernardo (English)

Reg. No.: 06280-298

Name of Judicial Officer: The Honorable William Q. Hayes, U.S. District Judge

Next Court Date: Sentencing on September 15, 2008, at 9:00 a.m.

Original Offense: 21 USC 952 & 960: Importation of 25.12 Kilograms of Marijuana

Date Conditions of Release Imposed: May 9, 2008, before the Honorable Peter C. Lewis, U.S. Magistrate Judge

Conditions of Release: Restrict travel to the state of California; report for supervision to Pretrial Services; not possess or use any narcotic drug or other controlled substance without a lawful medical prescription; and not possess any firearm or other dangerous weapon or explosive device.

Date Released on Bond: May 20, 2008

Modification: On May 29, 2008, bond was modified and the defendant was ordered to submit to treatment, and/or testing, as specified by the Pretrial Services Officer for drugs or alcohol. On July 22, 2008, bond was again modified and the defendant was ordered to participate in and successfully complete an outpatient drug treatment program at the direction of the Pretrial Services Officer.

Asst. U.S. Atty.: George Manahan
(619) 557-7174

Defense Counsel: Jami L. Ferrera (Appointed)
(619) 239-4344

Prior Violation History: On July 15, 2008, your Honor was notified the defendant violated his conditions of release by submitting a urine specimen on June 20, 2008, which tested positive for amphetamine/methamphetamine. Although he initially denied any illicit drug use, he later recanted and admitted to smoking methamphetamine. He subsequently submitted two urine specimens, which screened negative for illicit drug use. At that time, your Honor agreed to hold action in abeyance and ordered the defendant to participate in and successfully complete an outpatient drug treatment program.

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PETITIONING THE COURT

TO ISSUE A NO-BAIL BENCH WARRANT

The Pretrial Services officer believes that the defendant has violated the following condition(s) of pretrial release:

CONDITION(S)

ALLEGATION(S) OF NONCOMPLIANCE

1. Submit to drug and/or alcohol testing as directed.

On August 9, 12, and September 2, 2008, Mr. Chavez failed to report for urinalysis test.

2. Not possess or use any narcotic drug or other controlled substance as defined in 21 U.S.C. § 802, without a lawful medical prescription

On August 19, 2008, Mr. Chavez submitted urinalysis specimens, which confirmed positive for cocaine.

Grounds for Revocation: On August 9 and 12, 2008, Mr. Chavez failed to report and submit urinalysis specimens as instructed in the Eastern District of California. The defendant indicated the EAP testing site did not call him in. The Pretrial Services Officer (PSO) in the Eastern District of California in Fresno, stated he called the EAP facility and verified the defendant was called in for urinalysis testing. On August 19, 2008, the defendant submitted a urinalysis specimen which screened positive for cocaine. (On September 4, 2008, I received and reviewed the Kroll Laboratory report for the defendant's urinalysis from August 19, 2008, My review of this report reveals the confirmed positive for cocaine). On August 26, 2008, PSO Jacob Scott of the Eastern District of California, questioned the defendant, who denied any illicit drug use and stated "that's not even my drug."

Additionally, on September 4, 2008, PSO Scott informed the undersigned the defendant failed to report for drug testing on September 2, 2008.

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VIOLATION SENTENCING SUMMARY

SUPERVISION ADJUSTMENT

Mr. Chavez originally commenced pretrial supervision on May 20, 2008. On May 22, 2008, the defendant admitted to using marijuana and methamphetamine prior to his release from custody. After the defendant appeared before the Honorable Nita L. Stormes, on June 20, 2008, and tendered a guilty plea to the Information, he submitted a urinalysis specimen which screened positive for methamphetamine.

The defendant was afforded an opportunity to remain on bond and ordered to participate in and successfully complete an outpatient drug treatment program. However, it appears Mr. Chavez continues to violate his conditions of pretrial release. Mr. Chavez failed to report to the Pretrial Services testing site on August 9, 12, and September 2, 2008, and submitted a urinalysis specimen which screened positive for cocaine on August 19, 2008.

DEFENDANT PERSONAL HISTORY/CHARACTERISTICS

Mr. Chavez is a twenty-six (26) year old United States citizen. When interviewed by Pretrial Services, the defendant reportedly attended the 11th grade of high school and was unemployed at the time of his arrest. On May 22, 2008, Mr. Chavez reported he was in good health and also indicated he smoked marijuana, "two months ago," and admitted using methamphetamine on May 3, 2008.

Mr. Chavez reported he lives with the mother of his two children.

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RECOMMENDATION/JUSTIFICATION

Mr. Chavez's behavior clearly demonstrates his failure to abstain from illicit drug use. Therefore, we request your Honor issue a No-Bail bench warrant for the defendant's arrested in order to bring him before the Court and show cause why his pretrial release should not be revoked.

**I declare under penalty of perjury that the foregoing
is true and correct.**

Executed on: September 5, 2008

Respectfully submitted:

LORI A. GAROFALO

CHIEF PRETRIAL SERVICES OFFICER

by Silvana Patton

Silvana Patton

U.S. Pretrial Services Officer

(619) 446-3617

Reviewed and approved:

Anthony W. Ortiz

Anthony W. Ortiz

Supervising U.S. Pretrial Services Officer

(619) 557-6323

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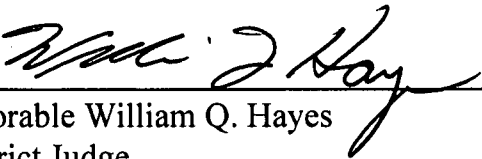
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THE COURT ORDERS:

 AGREE: Issue a No Bail Bench Warrant.

 DISAGREE: Based upon a finding of probable cause to bring the defendant before the Court to show cause why pretrial release should not be revoked for the alleged violations.

 Other _____



The Honorable William Q. Hayes
U.S. District Judge

 9/5/08
Date